

## REMARKS

### I. 35 U.S.C. § 103

Claims 1-3, 5-6, 9-12 and 14-22 stand rejected under 35 U.S.C. §103 as being rendered obvious over Webb in view of Mims. Applicant respectfully disagrees with the Examiner's position for the reasons set forth below.

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)." MPEP 2143.03.

The Examiner relies primarily on Webb and utilizes Mims for the proposition that the poker-based side wager of Webb could be played using the first three player cards rather than two player cards and a dealer card (office action, page 6). The combination offered by the Examiner is improper and untenable given the objectives stated in Webb.

Webb specifically teaches that an object of the invention is to not interfere with the normal blackjack game card sequence (abstract, [0010]). That is, in a conventional game of blackjack, players are initially dealt two cards and the dealer is dealt two cards with one face up. So, with Webb, it is the two player cards and the face-up dealer card that determine the outcome of the poker-based side wager. In other words, the normal dealing pattern and card sequence is not changed from conventional blackjack. To now suggest that Webb could be modified to deal each player three cards directly contradicts the object and teachings of Webb. Dealing three player cards to each player is not required or typical in a conventional game of blackjack. In many instances, players receive only two cards during a conventional game of blackjack.

For example, if a dealer shows a face-up card with a rank of 2, 3, 4, 5 or 6, most players will stand on a two-card hand of 12 or more. Similarly, if a player's two-card hand totals 17 or more, a player will stand regardless of the dealer's face-up card.

Therefore, in many situations, players receive only two cards during a hand of blackjack. Requiring players to receive three cards contradicts the objective of Webb because it would interfere with the card sequence. Thus, in Mims, players must discard one of the three cards so that the blackjack game can be played (abstract). However, the card sequence is completely altered over a traditional game of blackjack. As set forth in Webb, blackjack players do not want the card sequence altered [0010]. In fact, it is not uncommon to see blackjack players to openly question another player's decision to stand or hit based on the well-known theories of correct blackjack play. The reason the players question such decisions is because it alters the sequence of cards such that the hands of the remaining players or dealer may be changed to the detriment of the table. Utilizing a required third player card in Webb would directly contradict the specific objective of Webb and, for this reason, would be rejected by most blackjack players.

The present invention overcomes the problems of Mims (e.g., altering the card sequence) by changing the game total to 33 so that players always receive three player cards without busting. Therefore, there is no requirement that players discard cards or use a dealer's card to determine the poker hand. The game can then proceed like a conventional blackjack game with a game total of 33, not 21. The independent claims have been further amended to recite generally that any total value exceeding 33 is deemed a bust.

As the combination offered by the Examiner is improper and untenable, based on the teaching away by Webb, the current independent claims as amended should be allowed. Similarly, each of the narrower dependent claims should be allowed as well.

## **II. Conclusion**

It is respectfully submitted that the application is now in condition for allowance and, accordingly, reconsideration and allowance are respectfully requested. Should any questions remain regarding the allowability of the application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Appl. No. 10/627,528  
Amdt. dated July 23, 2007  
Reply to Office Action of January 22, 2007

Greenberg Traurig  
3773 Howard Hughes Pkwy.  
Suite 500 North  
Las Vegas, Nevada 89109

Telephone : 702-792-3773  
Facsimile : 702 792-9002  
Email : lvpto@gtlaw.com

Respectfully submitted,

By: 

Rob L. Phillips  
Registration No. 40,305

Date: July 23, 2007

LV 418603699v1 7/23/2007